



THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

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(Under the jurisdiction of Ministry of Corporate Affairs)

SUPPLEMENT PROFESSIONAL PROGRAMME (NEW SYLLABUS)

For

December, 2022 Examination

**CORPORATE RESTRUCTURING,
INSOLVENCY,
LIQUIDATION & WINDING-UP**

MODULE 2

PAPER 5

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Lesson 13

Cross Border Mergers

Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2022

In exercise of the powers conferred by sub-sections (1) and (2) of section 469 read with sections 230 to 240 of the Companies Act, 2013, the Central Government amended to the Rule 25A(4) of the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 vide notification of Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2022 dated 30th May, 2022.

According to the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2022, *in case of a compromise or an arrangement or merger or demerger between an Indian company and a company or body corporate which has been incorporated in a country which shares land border with India, a declaration in Form No. CAA-16 shall be required at the stage of submission of application under section 230 of the Act.*

Lesson 16

Role, Functions and Duties of IP, IRP and RP

Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2022

In exercise of the powers conferred by section 196(1) (t) read with section 240 of the Insolvency and Bankruptcy Code, 2016, the Insolvency and Bankruptcy Board of India amended the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, vide notification of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2022 dated 9th February, 2022.

Amendments are pertaining to the Meetings of the Committee (Regulation 18) & Preservation of Records (Regulation 39A) respectively. The details amendment are as follows:

Meetings of the Committee (Regulation 18)

(1) A resolution professional may convene a meeting of the committee as and when he considers necessary.

(2) A resolution professional may convene a meeting, if he considers it necessary, on a request received from members of the committee and shall convene a meeting if the same is made by members of the committee representing at least thirty three per cent of the voting rights.

(3) A resolution professional may place a proposal received from members of the committee in a meeting, if he considers it necessary and shall place the proposal if the same is made by members of the committee representing at least thirty three per cent of the voting rights.

Preservation of Records (Regulation 39A)

(1) The interim resolution professional or the resolution professional, as the case may be, shall preserve copies of all such records which are required to give a complete account of the corporate insolvency resolution process.

(2) Without prejudice to the generality of the obligations under sub-regulation (1) stated above, the interim resolution professional or the resolution professional, as the case may be, shall preserve copies of records relating to or forming the basis of: -

- (a) his appointment as interim resolution professional or resolution professional, including the terms of appointment;
- (b) handing over / taking over of the assignment;
- (c) admission of corporate debtor into corporate insolvency resolution process;
- (d) public announcement;
- (e) the constitution of committee and meetings of the committee;
- (f) claims, verification of claims, and list of creditors;
- (g) engagement of professionals, registered valuers, and insolvency professional entity, including work done, reports etc., submitted by them;
- (h) information memorandum;
- (i) all filings with the Adjudicating Authority, Appellate Authority and their orders;
- (j) invitation, consideration and approval of the resolution plan;
- (k) statutory filings with Board and insolvency professional agencies;
- (l) correspondence during the corporate insolvency resolution process;
- (m) insolvency resolution process cost; and
- (n) preferential, undervalued, extortionate credit transactions or fraudulent or wrongful trading.

(3) The interim resolution professional or the resolution professional shall preserve:

- (a) electronic copy of all records (physical and electronic) for a minimum period of eight years; and
- (b) a physical copy of records for a minimum period of three years; from the date of completion of the corporate insolvency resolution process or the conclusion of any proceeding relating to the corporate insolvency resolution process, before the Board, the Adjudicating Authority, Appellate Authority or any Court, whichever is later.

(4) The interim resolution professional or the resolution professional shall preserve the records at a secure place and shall be obliged to produce records as may be required under the Code and the Regulations.

Note: Students appearing in December, 2022 Examination should also update themselves on all the relevant Notifications, Circulars, Clarifications, Orders etc. issued by MCA, SEBI, ICSI & or other authority till 31st May, 2022.